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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,557	06/29/2001	Andrew V. Anderson	42390.P9765X	6490
8791	7590	12/05/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			CHANKONG, DOHM	
			ART UNIT	PAPER NUMBER
			2152	
DATE MAILED: 12/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/895,557	ANDERSON ET AL.
	Examiner	Art Unit
	Dohm Chankong	2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 and 36-39 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-33 and 36-39 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION.

- 1> This action is in response to Applicant's amendment and remarks, filed 9.29.2005. Claims 1, 2, 7, 9, 10, 11, 12, 17, 19, 20, 21, 26, 27 and 30-33 were amended. Claims 1-33 and 36-39 are presented for further examination.
- 2> This is a final rejection.

Response to Arguments

3> Applicant's arguments with respect to claims 1-33 and 36-39 have been considered but, for reasons to be discussed herewith, they are not persuasive. Further, Applicant has introduced amendments to the claims to overcome the prior art references, and Horvitz in particular, but, for reasons to be discussed herewith, these amendments fail to distinguish the claimed invention over the prior art.

Applicant argues in substance that the Horvitz fails to disclose (a) an agent selector; and (b) weighing by the agent selector the level of importance against an amount of intrusion to the user if the digital assistant takes an action to resolve the event.

The Office has considered these arguments but respectfully disagrees for three reasons. First, the amended claim language of "amount of intrusion to the user" and "resolve the event" is vague and fails to particularly define the subject matter of the invention. Applicant's specification does not define what is meant by Applicant's use of "intrusion" nor is there given a means by which to measure the "amount". Therefore, one of ordinary skill in the art would be uncertain as to how to precisely implement the claimed agent selector that

could weigh the “level of importance” of an event against the “amount of intrusion” to a user. The claim language “resolve the event” is also vague as it is unclear how an event is “resolved”.

Lacking any clarifying language in the claims or in the specification, the Office is afforded the broadest reasonable interpretation of “amount of intrusion” and “resolve the event” in analyzing the claims. Horvitz discloses deferral capability whereby a user may receive a message based on a convenience analysis of the user’s current situation; the analysis essentially determines whether or not to send the message based on weighing the priority of the message against the priority of user’s current situation [0075 where : Horvitz discloses deferral options and “gleaning” from observations of the user, a convenient time to deliver different priority messages; for instance, when a user is in a “critical” meeting, lower priority messages are not transmitted]. Further, the assistant, depending on the comparison of thresholds, can either queue the message or immediately forward it to the user to be seen. This functionality is viewed as corresponding to applicant’s claimed “resolve the event” where the Horvitz’s message is the event. Thus, secondly, the Office asserts that Horvitz’s deferral component performance of a convenience analysis of user’s situation corresponds to the “amount of intrusion” functionality as claimed by Applicant.

Finally, based on the claim language, the claimed “agent selector” merely performs the weighing test between the level of importance and amount of intrusion. Thus, Horvitz’s message controls component [Figure 3 | 0075], which performs the weighing and convenience (intrusion) analysis corresponds to claimed “agent selector”.

4> Based on the preceding remarks, Applicant's amendment does not overcome the Horvitz reference.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5> Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In particular, independent claims are rejected for claim language directed to "amount of intrusion" which is vague and does not clearly define the subject matter of the invention. The claim language is not defined in the claims and Applicant's specification does not provide clear and precise guidance for one of ordinary skill in the art as to ascertain its meaning.

b. Independent claims are further rejected for claim language directed to "resolv(ing) the event". This language is vague and does not clearly define the subject matter of the invention. It is unclear what is meant to "resolve" an event as it is not defined by the claims or the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6> Claims 1, 3-6, 10, 11, 13-16, 20-25, 27-29, 31-32, 36 and 38 are rejected under 35 U.S.C § 102(e) as being anticipated by Horvitz et al, U.S Patent Publication No. 2003/0046421 ["Horvitz"].

7> Regarding claims 1, 11, 21, 27, and 31-32, Horvitz discloses a method, a computer readable medium comprising instruction and a digital assistant, e.g., computing device ("system", hereinafter), comprising, steps, means and executable instructions for: providing a digital assistant having an event detector and an agent selector [Figure 3 | 0075, 0076];

receiving by the event detector the information of an event from an information provider [Figure 1 | Fig. 27 where : Horvitz's message controls receives information that a message has arrived for user (event)];

determining by the event detector the level of importance of the event relative to a user of the digital assistant [0009, 0011, 0014-15, 0065, 0076, 0113 where : each arriving message is given a priority (level of importance)];

weighing by the agent selector the level of importance against an amount of intrusion to the user if the digital assistant takes an action to resolve the event [0075, 0076 where : the

message controls may “resolve the event” by, for example, forwarding or not forwarding the message to the user depending on the priority of the message];

performing by the digital assistant the action to resolve the event without contacting the user if the level of importance of the event is greater than or equal to a first threshold and less than or equal to a second threshold [Fig. 23-26 | 0017, 0074-75, 0083, 0103, 0105 where : user is not contacted if the message priority is not high enough to disturb the user (if he is in a critical, or more important, meeting)]; and

contacting by the digital assistant the user in order for the user to resolve the event if the level of importance is greater than the second threshold [0075, 0076, 0103 where : if the message has a high enough priority, the assistant automatically forwards it to the user through his devices so he can immediately read (“resolve”) the message].

8> Regarding claims 3, 4, 13, 14, 23, 24, Horvitz discloses referring to information concerning the location of activities in which at least one person is engaged provided by a calendar [0075, 0076].

9> Regarding claims 5, 15 and 25, Horvitz discloses, user’s activity includes locate user whereabouts [Fig. 34 | 0262-0264].

10> Regarding claims 6 and 16, Horvitz discloses taking into account a limitation on a way of contacting at least one person arising from where said at least one person is located [0075].

11> Regarding claims 10 and 20, Horvitz discloses, referring to information exceptions to those rules [user-profile allow user to exclude message to be delivered, Horvitz, Fig. 14-16].

12> Regarding claims 22 and 28, Horvitz discloses evaluating the effect of the passage of time since a previous attempt to contact at least one person was made on the level of importance of the event [0075].

13> Regarding claim 29, Horvitz discloses referring to information concerning activities in which at least one person is engaged [0075].

14> Regarding claims 36 and 38, Horvitz discloses, using threshold to determine importance level of an event, based on the outcome, decides whether to take further action such as forward message, notifying a person as discussed above. Hence, determining whether opportunity exists for taking action is an inherent feature.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15> Claims 2, 12, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz, in view of what was well known in the art.

16> Regarding claims 2 and 12, Horvitz discloses the invention substantially, as described in claims 1 and 11, but fails to include the teaching of determining importance level by comparing subject of message with a list of subject. Official Notice is taken that level of determining level of importance by comparing subject with a list of subject of interest was well known and widely utilized in messaging communication art, e.g., e-mail filtering or messages subscribing system, in which allows its subscribers to specify the subject of interest in their profile for future comparison.

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made that to modify level of importance determination by including well known technique in the art to expand the utility of the system.

17> Regarding claims 37 and 39, Horvitz discloses the invention substantially, as claimed, as described in claims 21 and 27, including substantially as described in their base claims including, inherently teaches ceasing to take action, since the action taking is dictated by level of threshold. Horvitz does not explicitly disclose the system include logging inaction event. Official notice is taken that logging information were notorious at the time of the invention was made. Thus, to include a well known event logging for record action taken event would have been obvious to one of ordinary skilled in the art, because such inclusion would simplify system's activity analysis.

18> Claims 7, 17, 26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz, in view of Fisher et al (US. 5,835,896).

19> Regarding claims 7, 17, 26 and 30, Horvitz discloses the invention substantially, as described, in paragraph 7 above, including, referring to information concerning the user's preferences to determine if the user would prefer that action be taken on behalf of the user to respond to the event without contact any person (¶ 10, 70 and 79).

Despite the fact that Horvitz is silent on a feature of determining a price limitation for any action to be taken.

However, price limitation determination concept is not new, it has been utilized in convention proxy auctioning, in which a proxy bidder, e.g., computer software, is capable of determining price limitation and taking action without contact any person, i.e., bidding, increasing price, as long as price limitation is below or equal to a predetermined threshold. For instance, in the same field of endeavor, Fisher discloses an inventive concept as such (Abstract; Col. 1, line 56 - Col. 2, line 67; Col. 12, line 63 - Col. 13, line 25).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to expand a capability of assigning action taking task without contacting any person to taking action requiring payment, such as automatically bidder as suggested in Fisher, in order to enhance ability of a person who located remotely from e-commerce or auction site to progressively interacting with e-commerce or auction process without having

to stay in front of computer or auction terminal, but still maintaining a capability of interacting or auctioning, which would tremendously convenient for the bidder or the user.

20> Claims 8-9, 18-19 and 33 are rejected under 35 U.S.C § 103(a) as being unpatentable over Horvitz.

21> Regarding claims 8-9, 18-19 and 33, Horvitz discloses the invention substantially, as described in claims 1, 11 and 21, but it is silent on determining importance level includes consideration whether an earlier attempt was made to contact a person or rule permit action to be taken. However, such limitation is a variation of factors, which could be easily specify within scope of Horvitz teaching to perform a desirable task without modifying conceptual design. Thus, specifying detail factors as claimed, would have been obvious to one of ordinary skilled in the art at the time of the invention was made that was a matter of implementation choice, which an artisan could have used the system as taught by Horvitz to do so.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

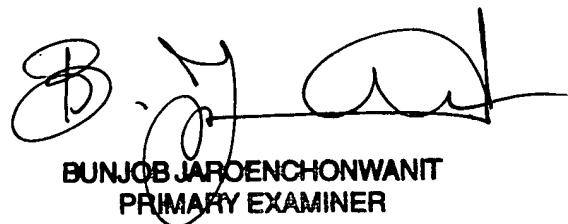
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:00 AM to 5:00 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER